

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In The Matter of )  
)  
Amendment of Part 90 of the ) PR Docket No. 93-144  
Commission's Rules to Facilitate ) RM-8117, RM-8030  
Future Development of SMR Systems ) RM-8029  
in the 800 MHz Frequency Band )  
)  
Implementation of Sections 3(n) ) GN Docket No. 93-252  
and 322 of the Communications Act )  
Regulatory Treatment of )  
Mobile Services )  
)  
Implementation of Section 309(j) ) PP Docket No. 93-253  
of the Communications Act - )  
Competitive Bidding )  
To: The Commission

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COMMENTS  
OF  
BALTIMORE GAS AND ELECTRIC COMPANY

Baltimore Gas and Electric Company ("BGE"), through its undersigned counsel and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. § 1.415, hereby submits these Comments on the Commission's Second Further Notice of Proposed Rule Making ("Second FNPRM") issued in the above-captioned proceeding.<sup>1/</sup>

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<sup>1/</sup> First Report and Order, Eight Report and Order, and Second Further Notice of Proposed Rule Making, Released December 15, 1995.

**I. Statement of Interest**

1. BGE provides electric service to 1.1 million customers and natural gas service to 538,000 customers throughout Baltimore and central Maryland. This heavily populated 2,500 square mile territory demands reliable communications. With this in mind, BGE has developed an 800 MHz network to improve customer service and to enhance emergency responsiveness in responding to power outages, downed power lines, natural gas leaks, and other severe situations. Over 2,800 dispatch, mobile and portable radio units use the system on a daily basis.

2. Each component of the BGE wireless network contains at least one General Category channel due to the unavailability of spectrum from other categories at the time of licensing. For example, BGE relies on three General Category frequencies in operating its critically important 800 MHz trunked voice and mobile data systems. Consequently, any changes in the Commission's rules with regard to the General Category or to 800 MHz licensing in general will have a severe and adverse impact on the ability of BGE, as a Private Mobile Radio Service ("PMRS") licensee, to operate its communications network in support of its service to the general public. BGE understandably has a keen interest in the outcome of the instant proceeding and

wishes to submit the following Comments in response to the Second FNPRM.

## II. Discussion

### A. In Reallocating the General Category, the FCC Is Ignoring the Interests of PMRS Licensees.

3. Over the past several years, the Commission has systematically precluded the access of BGE and other Industrial/Land Transportation ("I/LT") entities from other 800 MHz spectrum categories including the Specialized Mobile Radio ("SMR") Category, the Public Safety Category, and now the General Category. These actions totally disregard the interests of PMRS licensees, like BGE, who use General Category frequencies not to generate business revenues, but to enhance wireless communications in association with the provision of vital services to the general public. In reallocating the General Category to SMR for example, the Commission is jeopardizing past BGE radio investments and inhibiting BGE's ability to carry out necessary modifications and future system expansion.

### B. BGE Supports Indefinite Grandfathering for Non-SMR Incumbents.

4. The BGE land mobile radio network is a wide-area system providing communications to employees throughout the BGE service territory through voice dispatch and mobile data. In developing these systems, BGE has licensed the

same block of channels at ten different locations so that a portion of the network can operate in the simulcast mode. Several of BGE's General Category frequencies are included in the BGE simulcast 800 MHz trunked voice system. BGE cannot afford to have a single channel relocated without devastating the reliability of the simulcast system.

5. BGE encourages the Commission to adopt indefinite grandfathered status for all incumbents in response to the Commission's request for comment on the treatment of non-SMR incumbents.<sup>2/</sup> BGE believes that, as in the case of SMR incumbents, there are no equitable means of relocating non-SMR incumbents to alternative channels, nor are there alternative spectrum homes to accommodate non-SMR incumbents.<sup>3/</sup> Most importantly, utilities and public safety entities licensed for General Category spectrum cannot be placed in a position of uncertainty as to the status of these life-saving networks. Grandfathering non-SMR incumbents indefinitely is the only appropriate means to provide these PMRS entities with some assurance now that they will not be relocated involuntarily in the future. There is no justification for imposing mandatory relocation

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<sup>2/</sup> Second FNPRM at ¶ 315.

<sup>3/</sup> Id.

and harming the interests of public service entities to create the illusion of commercial competition.

6. As grandfathered licensees, non-SMR incumbents should be treated in the same fashion as proposed for SMR incumbents. In particular, non-SMR incumbents should be allowed (a) co-channel interference protection as currently provided for in the Commission's rules, (b) the ability to relocate or add facilities within the 22 dBu contour without prior notification to the Commission, and (c) the option to convert multiple site licenses to a single license. Also, non-SMR incumbents must either be notified by auction winners of system modifications or have access to an FCC-authorized database detailing the same information. Given the public interest purpose of the non-SMR incumbent systems, incumbent licensees must be fully aware of auction winner activity to avoid interference problems before they occur.

7. In the event the Commission imposes mandatory relocation on non-SMR incumbents, the Commission must put certain safeguards into place to ensure that the critically important land mobile radio operations of BGE and other

utilities are properly protected during the relocation process. Such safeguards include:

- (a) relocation to, at a minimum, comparable facilities -- in particular, BGE feels it is critical that auction participants be apprised of the undertaking associated with complete system relocation for an incumbent like BGE;<sup>4/</sup>
- (b) all or nothing system relocation -- "a relocated incumbent would ... have its entire system relocated, not just those frequencies desired by a particular EA licensee ...";<sup>5/</sup>
- (c) relocation to non-SMR spectrum;
- (d) the requirement that Economic Area ("EA") licensees must notify incumbents of their intention to relocate within 90 days of the release of the Public Notice commencing the voluntary negotiation period;<sup>6/</sup>
- (e) the ability of the incumbent to require that all EA licensees negotiate with the incumbent together;<sup>7/</sup>
- (f) a seamless cut-over;<sup>8/</sup> and
- (g) premium payments should be reimbursable amongst EA licensees -- it is anticipated that many PMRS entities like utilities will be forced to incur consulting, professional and legal fees at all stages of the relocation process.

While some auction participants may consider these safeguards onerous, BGE argues that these are the absolute minimum requirements if the Commission is to adequately

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<sup>4/</sup> BGE supports the definition of comparable facilities proposed for mandatory relocation of incumbents from the upper 200 SMR channels. Id. at ¶ 283.

<sup>5/</sup> Id.

<sup>6/</sup> See First Report and Order at ¶ 78.

<sup>7/</sup> Id.

<sup>8/</sup> Id. at ¶ 79.

protect the interests of non-SMR incumbents who are forced to relocate from their current spectrum home. For PMRS licensees like BGE, monetary reimbursement does not begin to cover the substantial hardship that will be endured by the company as it attempts to provide reliable public service during the relocation process.

### **III. Conclusion**

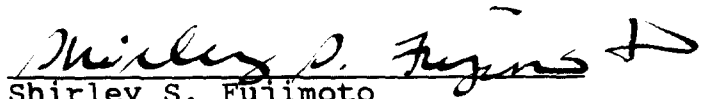
8. BGE has made a large investment to develop a communications network in support of its overall utility operations at service and safety levels expected by its consumers and the public in general. The Commission's plans to reallocate, relicense and auction the General Category do not seem to strike an appropriate balance between the Commission's desire to create competition in the marketplace and to protect the public's interest in receiving safe and efficient gas and electric service. By grandfathering indefinitely non-SMR incumbents, the Commission can take a small step to ensure the consumer is adequately protected in this instance.

**WHEREFORE, THE PREMISES CONSIDERED,** Baltimore Gas and Electric Company urges the Commission to consider these Comments and to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

**BALTIMORE GAS AND ELECTRIC COMPANY**

By:

  
Shirley S. Fujimoto  
Barry J. Ohlson  
McDermott, Will & Emery  
1850 K Street, N.W.  
Suite 500 West  
Washington, D.C. 20006  
(202) 887-8000

Its Attorneys

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